

## **JOINT CONSULTATIVE COMMITTEE**

### **MINUTE OF MEETING HELD ON 18<sup>TH</sup> JUNE 2008 IN MEADOWBANK HOUSE BOARDROOM**

Present:

Law Society of Scotland:  
John McNeil  
Lionel Most  
James Ness  
Janette Wilson  
Scott Wortley

Registers of Scotland:  
James Meldrum (Chairman)  
Sheenagh Adams  
John King  
Karen Alexander (Secretary)

#### **Opening remarks and apologies**

1. The Keeper opened the meeting and thanked members for their attendance. He welcomed John King to his first meeting of the JCC.
2. Apologies for absence were received from Bruce Beveridge.

#### **Minutes of last meeting**

3. The minute of the meeting held on 18<sup>th</sup> February was approved.

#### **Matters Arising:**

- **Review of the Land Registration (Scotland) Act 1979**

4. John King explained that there had been considerable progress since the JCC last met. He informed the Committee that the Bill was being drafted in approximately seven tranches. RoS had received tranches 1 and 2 from the Scottish Law Commission (SLC) in January 08. Tranche 3 had been received from SLC on 27 May. A Bill Review Team had been established in RoS to assist the SLC.

5. In March Lord James Drummond Young, Chairman of the SLC, wrote to Jim Mather MSP, Minister for Enterprise, Energy and Tourism, to report that the land registration project was at an advanced stage and to invite Scottish Ministers to consider bringing forward legislation in the current session of the Scottish Parliament. The Minister had replied in positive terms and indicated that he might meet Lord Drummond Young and Professor Gretton in the autumn to discuss. RoS would be content take the Bill forward.

6. John informed JCC that the SLC's current timescale would entail publication of a Report and the draft Bill in March 2009. Although this would mark the SLC's sign-off of the land registration project, they anticipated that there would be a public consultation of the draft Bill in 2009 prefacing the introduction of the Bill to the Scottish Parliament later that year. On that timescale the SLC considered the Bill could be passed by Parliament in 2010 with commencement in 2012.

7. The Keeper noted that these were speculative dates as the Parliamentary timescale would be dependent on the priorities set by Ministers. Scott Wortley also noted that Professor Gretton and the SLC have had other resource commitments. It was noted that the SLC planned to meet with the Law Society to discuss aspects of the Bill. The review should be kept as a matter arising.

- **Automated Registration of Title to Land**

8. The Keeper advised the Committee that he had recently met with Professor Brymer and the key message was that ARTL worked well and that only minor adjustments were now needed. There had been approximately 6000 security and discharge transactions processed through the system. Serious consideration was being given to the most effective way to continue the roll out to achieve maximum exposure and the ARTL working group would be helpful in taking this forward. A further article on ARTL, coordinated by James Ness and Chris Dempsey, would be placed in the July Law Society Journal to help promote the roll out.

9. James Ness said that the Law Society was relaxed about the rollout plan as long as it was completed over a fairly early timescale, but felt that it was important to achieve a critical mass of users. The Keeper noted that initially RoS had not anticipated the amount of attention new users would require but this was now being addressed.

10. Sheenagh Adams asked what could be done to encourage take up of property transfers transactions in ARTL. A number of suggestions were discussed, such as, more tie in with Case Management Systems, training and bulk versus individual signing. James Ness suggested that reasons for slower take up of these transactions may be that firms are having difficulty finding compatible agents to transact with and the additional cost to solicitors of having Case Management Systems rewritten.

- **Quality Initiative Update**

11. Sheenagh noted that the accuracy target was moving in the right direction. She added that the rejection rate, at Intake, for applications received from submitting agents was now at 8.8%, an improvement on the previous Quarter. James suggested this should be kept in focus a few times a year and that ARTL and the increase in Direct Debit payments should reduce errors. It was agreed that John King should provide James with the top ten initial rejection reasons for publication in the Law Society Journal and individual firms were to be encouraged again to contact RoS for details of their own rejection reasons.

**Action: John King to provide James with the top ten initial rejection reasons at intake for publication in the Law Society Journal.**

12. Discussion was held about some administrative issues where charge certificates/deeds had been sent to the wrong agent by RoS and where deeds had been separated from the appropriate registration application. Sheenagh agreed that she would be happy to take forward if specific examples were provided.

- **Corporate Plan**

13. The Keeper introduced Paper JCC2008/06/03 which provided an update on the Corporate Plan. He explained that the accuracy target had increased by 0.5% and that the First Registrations, Sasines and Dealings targets should represent an improvement in service and noted that the long-term improvement in the speed of dealing with complex casework was on track with targets although these were challenging.

14. James intimated that Voluntary Registration was desirable for both RoS and the public. The Keeper commented that currently RoS would take on a Voluntary Registration only if it was considered in the Land Register's interest. However he now wanted to extend Voluntary Registration further although RoS was not yet in a position to discuss in detail as it took priority only after older, complex casework had been dealt with but in order to progress RoS would:

- liaise with large landowners, such as the Forestry Commission, Transport Scotland and local councils with reference to extending land mass coverage;
- consider the change in triggers required to increase title coverage, although this would require legislation; and
- consider transactions for no value.

Lionel Most said that local councils should be encouraged to consider Voluntary Registration. Janette Wilson added that the Church of Scotland would be interested in the voluntary recording of their glebe land although to date applications for this had been rejected. It was agreed that the Land Register Extension project manager should discuss with Janette.

**Action: Janet Heritage to meet Janette Wilson to discuss the voluntary registration of the Church of Scotland glebe land.**

- **Interim Plotting of Land Register titles**

15. John King explained that following discussion at the last JCC meeting regarding the possible application of GPS technology to developers' titles, consideration had been given to ways in which the mapping of developers' titles could be carried out in advance of an OS survey of the area as this was the main reason for delays in processing Transfers of Part applications. Interim Plotting would involve plotting boundaries on a title plan in advance of an OS survey. Research was ongoing to consider the application of new technology, its accuracy, the current legal framework and the consequences for customers and RoS. An update would be provided to the next JCC.

**Action: John King to report back to next meeting of JCC on progress with Interim Plotting of Land Register titles**

- **Title Conditions**

16. John King explained that paper JCC 2008/06/04 set out new procedures for the consideration of applications for registration that fall within the ambit of section 4 of the Title Conditions (Scotland) Act 2003. RoS had conducted a review of how well dual registration was working in practice. In most cases solicitors were submitting dual registrations correctly. However there was a significant minority of applications where the necessary dual registration had not been carried out correctly and which resulted in the application being withdrawn or cancelled. Currently, this would happen after the point of applying for registration. This could cause practical difficulties where there had been a significant lapse of time since the date on which the application was originally presented. RoS had therefore decided to commit resource to checking relevant applications at intake stage to ensure all the necessary applications had been correctly completed and presented for dual registration and if not they would be returned at an early stage for remedial action by the solicitor. The JCC welcomed the new procedures.

17. It was explained that the new procedures would be communicated to the legal profession through a Registers Update. James Ness also suggested the new procedures could form the basis of a useful article for the August Journal. Scott Wortley and James Ness offered to input in to the wording of the Registers Update and Journal article. The new procedures would start at the beginning of July.

**Action: John King to liaise with Scott Wortley and James Ness on the wording of the Registers Update and the August Journal article.**

- **Report by the Keeper**

18. The Keeper noted that RoS' intakes were still quite high notwithstanding the current market slow down. However, this was probably due to time lag with some applications and re-mortgage work. RoS would take the slow down in the market as an opportunity to make greater progress with older work. The JCC noted the performance results.

19. John McNeil asked for greater clarity in how performance against the FR target would be counted. Sheenagh Adams asked for views on targets for older, complex work and asked whether RoS should write an article for The Journal to explain these targets. The Committee agreed that this would be helpful for lenders, particularly English firms.

**Action: Sheenagh to arrange for an article to be placed in The Journal which explains the complex casework targets further.**

- **Register of Sites of Special Scientific Interest**

20. The update on the Register of Sites of Special Scientific Interest was noted.

- **Register of Floating Charges (RoffC)**

21. John King explained that RoS had been working closely with BT to detail the high level specification for the Register and that was almost complete. There were two main areas in terms of the development that we required to be established. One concerned the detail of how RoS shared data in the RoffC with Companies House and the subsequent display of that in the Companies Register. Companies House and RoS, along with Business Enterprise and Regulatory Reform (BERR), had identified a preferred solution although Companies House had yet to approve formally.

22. The other issue was volumes as it was difficult to anticipate the number of charges that would come from English and Welsh lenders. BERR was undertaking a mini-consultation exercise and it was hoped that this might give some clarity to the numbers. This would, however, impact on the IT development surrounding the register as volumetrics is something that BT said needed to be hard-wired in to the system from the beginning. It was hoped that the position would become clearer over the summer. The indicative timescale that RoS and Companies House were working towards for the launch of the Register of Floating Charges was late 2010.

23. Mr Wortley noted that the BERR website indicated a commencement date of October 2009 for the legislation relating to the relevant Companies Acts.

**Action: John King was to contact BERR and provide clarification on commencement date and provide an update to the next JCC.**

*(Secretary's note: BERR's website was checked. It does not mention commencement dates for the Register of Floating Charges. It narrates that the relevant part of the Companies Act will come into force in October 2009. However that part of the Act neither commences the Register of Floating Charges nor disappplies dual registration; it merely permits the Secretary of State to issue a dis-application Order at any time thereafter.)*

- **AOB**

24. The Keeper advised the Board about the recent findings of the Shucksmith Committee of Inquiry into Crofting, which had recommended that responsibility for the Register of Crofts should be passed to RoS. Ministers had received this proposal favourably, subject to the necessary primary legislation and the necessary transitional and funding arrangements being dealt with. The Keeper felt that this was a good fit with RoS' business.

25. The Committee discussed the Information Fees review consultation which was to be discussed at the Conveyancing Committee that night prior to their response being made. Sheenagh commented that there would be a Registration Fee review later in the year, likely offering a further fee reduction.

- **Date of next meeting**

26. The Keeper thanked the members for their attendance and noted that RoS Secretariat would be in touch to arrange dates for the next meeting in November 2008.

**REGISTERS OF SCOTLAND**  
June 2008